

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

IN RE PHARMACEUTICAL INDUSTRY
AVERAGE WHOLESALE PRICE
LITIGATION

MDL NO. 1456

CIVIL ACTION: 01-CV-12257-PBS

THIS DOCUMENT RELATES TO ALL
ACTIONS

Judge Patti B. Saris

Chief Mag. Judge Marianne B. Bowler

**DEFENDANT DEY, INC.'S OPPOSITION TO FALLON COMMUNITY
HEALTH PLAN, INC.'S MOTION TO QUASH THE SUBPOENA OF DEY, INC.**

Dey, Inc. ("Dey") submits this Opposition to Fallon Community Health Plan, Inc.'s ("Fallon") motion to quash the subpoena served upon it by Dey, Inc. on November 21, 2005 (the "Subpoena").

Dey hereby incorporates the arguments advanced in its: (1) Opposition to Plaintiffs' Motions for Protective Orders concerning subpoenas issued to Tufts Associated Health Plans, Inc., Neighborhood Health Plan, Inc., Fallon Community Health Plan, Inc. , and Harvard Pilgrim Health Care, Inc. (docket entry nos. 1919 and 1920); (2) Opposition to Tufts Associated Health Plans, Inc.'s Motion for Protective Order (docket entry nos. 1939 and 1940); (3) Opposition to Neighborhood Health Plan, Inc.'s Motion for Protective Order and to Quash Subpoena from Dey, Inc. (docket entry nos. 1959 and 1960); and to the extent applicable, (4) Opposition to Fallon's Motion to Stay Discovery (docket entry nos. 2069 and 2070) (collectively, the "Oppositions").

CONCLUSION

For the reasons set forth in the Oppositions, Dey respectfully requests that the Court deny Fallon's motion to quash the Subpoena.

Dated: February 1, 2006

Respectfully submitted,

KELLEY DRYE & WARREN LLP

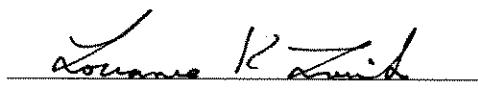
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Attorneys for Dey, Inc.

CERTIFICATE OF SERVICE

I certify that on February 1 2006, a true and correct copy of the foregoing Opposition to Fallon's Motion to Quash the Subpoena by Dey, Inc. was served on all counsel of record by electronic service pursuant to Paragraph 11 of Case Management Order No. 2 by sending a copy to LexisNexis File & Serve for posting and notification to all parties. I further certify that on February 1, 2006, a copy was served on counsel for Fallon via facsimile and LexisNexis.



Lorianne K. Trewick
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